

HOUSE BILL REPORT

SHB 2261

As Amended by the Senate

Title: An act relating to charitable donations of eye glasses and hearing instruments.

Brief Description: Providing limited immunity for organizations making charitable donations of eye glasses or hearing instruments.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Takko, Reykdal, Orcutt, Wilcox, Jinkins, Finn and Hudgins).

Brief History:

Committee Activity:

Judiciary: 1/23/12, 1/30/12 [DPS].

Floor Activity:

Passed House: 2/9/12, 97-0.

Senate Amended.

Passed Senate: 3/2/12, 48-0.

Brief Summary of Substitute Bill

- Limits the liability of charitable organizations for providing previously owned eyeglasses or hearing instruments.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Hansen, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Omeara Harrington (786-7136).

Background:

The Good Samaritan Act provides immunity from liability for individuals who provide emergency care at the scene of an emergency without expectation of compensation. The Good Samaritan Act has been amended to include immunity provisions for physicians and

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other health care providers volunteering health care services with nonprofit organizations or with for-profit organizations that regularly provide services to the public or uninsured. Services must be given without payment or expectation of payment in order for the immunity to apply. These immunity provisions do not apply to acts or omissions that constitute gross negligence.

In 1997 Congress passed the Volunteer Protection Act which provides immunity from liability for individuals providing volunteer services for government or nonprofit entities as long as the volunteer does not commit an act or omission that constitutes gross negligence. In 2001 Washington passed immunity protections to enact more specific standards than the Volunteer Protection Act. In Washington, volunteers for a nonprofit entity only receive the immunity protection when the entity maintains a prescribed amount of liability insurance relative to its revenues.

Alaska, Oregon, and Arizona have all passed laws specifically to shield charitable organizations from liability for facilitating donations of used eyeglasses.

Summary of Substitute Bill:

Charitable organizations are not liable for damages arising out of any act or omission associated with providing people with previously owned eyeglasses or hearing instruments. The organization is still subject to liability for damages arising out of acts or omissions that constitute gross negligence or willful or wanton misconduct.

The immunity only applies if certain criteria are met. The person to whom an organization provides eyeglasses or hearing instruments must be at least 14 years of age and no compensation may be expected or collected. The eyeglasses or hearing devices must be provided by a medical provider who has personally examined the receiving person or has personally consulted with the medical professional who issued the prescription for eyeglasses or examined the recipient of hearing instruments.

The organization must qualify as a charitable organization in order for the immunity to apply. Charitable organizations are those that regularly engage in or provide financial support for a benevolent or charitable activity that benefits nonmembers. Also, a charitable organization's income cannot be distributable to its members, directors, or officers, and none of those actors or any other employee or agent may be paid an amount beyond a fixed, reasonable, and approved level of compensation.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment: (1) removes the requirement that the examining physician, osteopathic physician, or optometrist issue a prescription; and (2) allows eyeglasses to be provided by a physician's or optician's optical assistant who has personally consulted with the physician, osteopathic physician, or optometrist who examined the person receiving the eyeglasses.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) In 1925 Helen Keller asked the Lions to be the "knights of the blind." The Lions provide a valuable service for the vision impaired, recycling approximately 200,000 pairs of eyeglasses per year. This bill provides immunity for these organizations, and helps continue this program of recycling eyeglasses. A number of states have provided a similar immunity.

This is a good bill, but hearing instrument fitters have a licensing requirement that they do not provide hearing instruments to those who are under 18 years old. Because the bill references an age of 14 we have to make sure the bill complies with the licensing requirement.

(Opposed) None.

Persons Testifying: Representative Takko, prime sponsor; and Melissa Johnson, Washington Speech and Hearing Association.

Persons Signed In To Testify But Not Testifying: None.